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January 6, 2010

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MEMO ENDORSED**BY FACSIMILE**Honorable Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

No problem
by me 1/7/10

Re: ***Moises Mendez v. Starwood Hotels & Resorts Worldwide, Inc.,***
No. 08-CV-4967 (CM)(KNF)

Dear Judge McMahon:

As Your Honor knows, we represent Plaintiff Moises Mendez ("Mr. Mendez") in the above-referenced case, which is scheduled for trial to commence on February 8, 2010. I write to respectfully request the Court's leave for my partner, Scott B. Gilly, to appear, together with myself, as trial counsel for Mr. Mendez. Mr. Gilly has intimate knowledge of this case and is fully prepared to appear with me as trial counsel.

This request is necessitated because my colleagues Andrew Goodstadt and Ari Graff, who appeared with me at the final pretrial conference in this case on October 16, 2009, are counsel for five Plaintiffs in a multi-party action that was calendared last week for a jury trial to commence before Judge Feuerstein on February 22, 2010, after three years of discovery (see 2:07-cv-1215 (SJF)(ETB) (E.D.N.Y.)), and are therefore unable to appear as trial counsel in this case. As Your Honor may recall, although Messrs. Goodstadt and Graff were available to proceed to trial on November 2, 2009, as originally scheduled (see ECF #51), that trial date was adjourned to November 30, 2009 at Defendant's request (see ECF #55).¹ Although Messrs. Goodstadt and Graff also were available to proceed to trial on November 30, 2009, that trial

¹ We have consistently opposed any delay of Mr. Mendez's opportunity to vindicate his claims at trial, including Defendant's motions before this Court to dismiss (see ECF #18), to stay discovery (see ECF #29), and to adjourn the trial (see ECF #54), as well as Defendant's interlocutory appeal (see ECF #50) and motion for a stay of trial by the Second Circuit (see ECF #45). Allowing Mr. Gilly to appear as trial counsel would obviate any need for Plaintiff to now request a delay of Mr. Mendez's day in Court.

Thompson Wigdor & Gilly LLP

Honorable Colleen McMahon
January 6, 2010
Page 2

date was adjourned by the Court to February 8, 2010 (see ECF #93). As noted above, Messrs. Goodstadt and Graff were available to proceed to trial on February 8, 2010 until a conflicting trial obligation arose last week.

Thank you very much for Your Honor's consideration of this request.

Respectfully submitted,



Kenneth P. Thompson

cc: Mr. Moises Mendez
Scott B. Gilly, Esq.
Andrew Goodstadt, Esq.
Ari Graff, Esq.
Michael Starr, Esq.
Loren L. Forrest, Jr., Esq.